

Docket No.: M066
(PATENT)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:
Basil C. Hosmer et al.

Application No.: 10/791,299

Confirmation No.: 3513

Filed: March 1, 2004

Art Unit: 2617

For: SYSTEM AND METHOD FOR DEVELOPING
INFORMATION FOR A WIRELESS
INFORMATION SYSTEM

Examiner: J. Y. Lee

APPEAL BRIEF

MS Appeal Brief - Patents
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

As required under 37 C.F.R. § 41.37(a), this brief is filed within two months of the Notice of Appeal filed in this case on July 22, 2008, and is in furtherance of said Notice of Appeal.

The fees required under 37 C.F.R. § 41.20(b)(2) are dealt with in the accompanying TRANSMITTAL OF APPEAL BRIEF.

This brief contains items under the following headings as required by 37 C.F.R. § 41.37 and M.P.E.P. § 1206:

- I. Real Party In Interest
- II Related Appeals and Interferences
- III. Status of Claims
- IV. Status of Amendments
- V. Summary of Claimed Subject Matter
- VI. Grounds of Rejection to be Reviewed on Appeal
- VII. Argument
- VIII. Claims Appendix
- IX. Evidence Appendix
- X. Related Proceedings Appendix

I. REAL PARTY IN INTEREST

The real party in interest for this appeal is:

ADOBE SYSTEMS INCORPORATED

II. RELATED APPEALS, INTERFERENCES, AND JUDICIAL PROCEEDINGS

There are no other appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in this appeal.

III. STATUS OF CLAIMS

A. Total Number of Claims in Application

There are 27 claims pending in application.

B. Current Status of Claims

- 1. Claims canceled: 27-30
- 2. Claims withdrawn from consideration but not canceled: none
- 3. Claims pending: 1-26 and 31
- 4. Claims allowed: none

5. Claims rejected: 1-26 and 31

C. Claims On Appeal

The claims on appeal are claims 1-26 and 31

IV. STATUS OF AMENDMENTS

The claims were not amended after the Final Office Action dated April 21, 2008 (hereinafter *Final Office Action*).

V. SUMMARY OF CLAIMED SUBJECT MATTER

The following provides a concise explanation of the subject matter defined in each of the separately argued claims involved in the appeal, referring to the specification by paragraph number and to the drawings and their reference characters, as required by 37 C.F.R. § 41.37(c)(1)(v). It should be noted that the citation to passages in the specification and drawings for each claim element does not imply that the limitations from the specification and drawings should be read into the corresponding claim element.

Embodiments of a method for developing data for a mobile information system, such as in claim 1, are described in paragraphs [0030] through [0040]. By way of example, paragraphs [0030], [0031], [0034], [0038], [0039], and FIGURE 8 (800) show a method that comprises receiving information preferences from a plurality of subscribers to said mobile information system, wherein each subscriber's information preferences specify at least one type of dynamically changing information available from a same data source provider that said subscriber desires to receive through subscription to said mobile information system. Paragraphs [0031], [0035], [0038], [0039], and FIGURE 8 (802) show the method further comprises aggregating said information preferences received from said plurality of subscribers into aggregated information preferences, wherein at least two of said aggregated information preferences correspond to different data of said same data source provider. Paragraphs [0032], [0036], [0038], [0039], and FIGURE 8 (803) show the method further comprises transmitting said aggregated information preferences to said same data source provider. Paragraphs [0030], [0032], [0033], [0036], [0040], and FIGURE 8 (804) show the method further comprises

assembling data for said mobile information system using said aggregated information preferences.

In certain embodiments, such as that of claim 5, the method of claim 1 further comprises determining which of said plurality of subscribers are connected to said mobile information system and sending subscriber-specific feed data streams to connected ones of said plurality of subscribers. Paragraph [0040]; FIGURE 8 (805 and 806).

In certain embodiments, such as that of claim 7 (the method of claim 1), the data is contained in a data document, wherein said data document is created from a data-descriptive meta-language. Paragraph [0040]; FIGURE 8 (805).

In another embodiment, a system for compiling data for a mobile rich media information system, such as in claim 9, is described in paragraphs [0030] through [0040]. This system comprises means for gathering information preferences from a plurality of subscribers to said mobile rich media information system as shown in paragraphs [0030], [0031], [0034], [0038], [0039], and FIGURE 8 (800). Further, the system comprises means for assembling two or more of said information preferences gathered from said plurality of subscribers that correspond to different data of a same data source provider into an aggregate preference as shown in paragraphs [0031], [0035], [0038], [0039] and FIGURE 8 (802). The system also comprises means for transmitting said aggregate preference to said data source provider as shown in paragraphs [0032], [0036], [0038], [0039], and FIGURE 8 (803). Further, the system comprises means for compiling data for said mobile rich media information system using said aggregated information preferences as shown in paragraphs [0030], [0032], [0033], [0036], [0040], and FIGURE 8 (804).

In certain embodiments, such as that of claim 13, the method of claim 9 further comprises means for determining which of said plurality of subscribers are connected to said mobile rich media information system and means for sending subscriber-specific channel data streams to connected ones of said plurality of subscribers. Paragraph [0040]; FIGURE 8 (805 and 806).

In certain embodiments, such as that of claim 15 (the method of claim 9), the compiled data is formatted into a data document, wherein said data document is created from a data-descriptive meta-language. Paragraph [0040]; FIGURE 8 (805).

In another embodiment, such as in claim 17, a computer program product having a computer readable medium with computer program logic recorded thereon for developing information for a mobile information system as shown in paragraphs [0030] through [0040]. Paragraphs [0030], [0031], [0034], [0038], [0039], and FIGURE 8 (800) describe the computer program product as comprising code for receiving one or more preferences from a plurality of subscribers to said mobile information system, wherein each of said preferences identifies a subset of dynamically changing information available for subscription through at least one information channel. Paragraphs [0031], [0035], [0038], [0039], and FIGURE 8 (802) show the computer program further comprises code for assembling said one or more preferences received from said plurality of subscribers into an aggregate preference, wherein at least two of said assembled one or more preferences correspond to different data of a same information source provider. Paragraphs [0032], [0036], [0038], [0039], and FIGURE 8 (803) show the computer program also comprises code for transmitting said aggregate preference to said information source provider. Paragraphs [0030], [0032], [0033], [0036], and [0040] show the computer program further comprises code for compiling information for said mobile information system using said aggregate preference.

In certain other embodiments such as claim 21 of the computer program of claim 17, the computer program further comprise code for determining which ones of said plurality of subscribers have an open session with said mobile information system and code for sending subscriber-specific channel data streams to connected ones of said plurality of subscribers determined to have said open connection. Paragraph [0040]; FIGURE 8 (805 and 806).

In certain embodiments, such as that of claim 23 (the computer program of claim 17), the information is contained in a information document, wherein said information document is created from a data-descriptive meta-language. Paragraph [0040]; FIGURE 8 (805).

In another embodiment of the invention, such as in claim 25, a method comprises receiving, at an enhanced broadcast server, preferences from a plurality of subscribers to a mobile information system, wherein said preferences specify for each of said subscribers a subset of information that is available from at least one data provider with which said enhanced broadcast server is communicatively coupled and that is of interest to said subscriber as shown in paragraphs [0030], [0031], [0034], [0038], [0039], and FIGURE 8 (800). The method further comprises aggregating, by said enhanced broadcast server, said preferences of said plurality of subscribers for different information available from one of said at least one data provider to form a superset of said information that is of interest to said plurality of subscribers as shown in paragraphs [0031], [0035], [0038], [0039], and FIGURE 8 (802). The method also comprises sending, from said enhanced broadcast server, a request for said superset of said information to said one of said at least one data provider as shown in paragraphs [0032], [0036], [0038], [0039], and FIGURE 8 (803). Moreover, the method comprises receiving, at said enhanced broadcast server, said requested superset of said information from said one of said at least one data provider as shown in paragraphs [0033], [0036], [0040], and FIGURE 8 (805). Further, the method comprises determining, by said enhanced broadcast server, corresponding subsets of said received superset of said information that are of interest to each of said plurality of subscribers based on each of said subscribers' preferences as shown in paragraphs [0033], [0036], [0037], [0040], and FIGURE 8 (805). The method also comprises sending, from said enhanced broadcast server, said determined subsets of said received superset of said information to each of said plurality of subscribers as shown in paragraphs [0030], [0033], [0037], [0040], and FIGURE 8 (806).

In another embodiment, such as claim 31, a method is described. Paragraphs [0030], [0031], [0034], [0038], [0039], and FIGURE 8 (800) show this method comprises receiving preferences from a plurality of subscribers, wherein two or more of said preferences specify different subsets of information that are available from one of a plurality of data providers. Paragraphs [0031], [0035], [0038], [0039], and FIGURE 8 (802) disclose the method also comprises aggregating said two or more of said preferences. Paragraphs [0032], [0036], [0038], [0039] and FIGURE 8 (803) also show the method comprises sending a request comprising said

aggregated preferences to said one of said plurality of data providers. Further, paragraphs [0030], [0033], [0037], [0040], and FIGURE 8 (806) disclose the method comprises receiving said different subsets of information and sending each of said different subsets of information to a corresponding one of said plurality of subscribers.

VI. GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL

- A. Claims 1-5, 7-13, 15-21, 23-26 and 31 are rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent Publication No. 2002/0107830 to Nanja (hereinafter *Nanja*) in view of U.S. Patent Publication No. 2003/0005455 to Bowers (hereinafter *Bowers*) and further in view of U.S. Patent Publication No. 2007/0094086 to Ikezawa et al. (hereinafter *Ikezawa*).
- B. Claims 6, 14, and 22 are rejected under 35 U.S.C. § 103(a) as being unpatentable over *Nanja* in view of *Bowers*, *Ikezawa*, and U.S. Patent Publication No. 2004/0199635 to Ta et al. (hereinafter *Ta*).

VII. ARGUMENT

Appellant hereby traverses the outstanding rejections of the claims and request reconsideration and reversal of the outstanding rejections for the reasons advanced below.

A. Claim Rejections Under 35 U.S.C. § 103(a) over *Nanja* in view of *Bowers* and *Ikezawa*

Claims 1-5, 7-8, 9-13, 15-16, 17-21, 23-26 and 31 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over *Nanja* in view of *Bowers* and further in view of *Ikezawa*. *Final Office Action*, at 2 and 7. Appellant traverses the rejection and asserts that the claims are allowable, at least, for the reasons stated below.

To make a *prima facie* case of obviousness, the Examiner must determine the “scope and content of the prior art,” ascertain the “differences between the prior art and the claims at issue,” determine “the level of ordinary skill in the pertinent art,” and evaluate evidence of secondary considerations. *Graham v. John Deere*, 383 U.S. 1, 17, (1966); *KSR Int’l Co. v. Teleflex, Inc.*, 127 S.Ct 1727 (2007). When determining the differences between the prior art and the claims, the question under 35 U.S.C. § 103 is not whether the differences themselves would have been obvious, but whether the claimed invention as a whole would have been obvious. *Stratoflex, Inc.*

v. Aeroquip Corp., 713 F.2d 1530, 218 USPQ 871 (Fed. Cir. 1983); *Schenck v. Nortron Corp.*, 713 F.2d 782, 218 USPQ 698 (Fed. Cir. 1983).

As discussed below, Appellant respectfully submits that insufficient motivation exists for combining the references in the manner applied by the *Final Office Action*. The Supreme Court in *KSR* stated that it is “important [for an examiner] to identify a reason that would have prompted a person of ordinary skill in the relevant field to combine the [prior art] elements” in the manner claimed. *KSR* at 712. Indeed, the Court indicated that there should be an “explicit” analysis regarding “whether there was an ***apparent reason*** to combine the known elements in the fashion claimed by the patent at issue.” *Id.* (emphasis added).

Further, the applied combination of references fails to teach or suggest all elements of the claims. The lack of disclosure or suggestion of all claim elements by the applied references further evidences that the claims are not obvious in view of the combined references.

1. Insufficient Reason to Combine

The rejection of claims 1-5, 7-8, 9-13, 15-16, 17-21, 23-26, and 31 should be overruled because the combination of *Nanja* with *Bowers* and *Ikezawa* is improper. In support for the combination of *Bowers* and *Nanja*, the Examiner states that:

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to utilize the teachings of *Bowers* into the teachings of *Nanja* for the purposes of increasing the network resources efficiency (paragraph 9-11). *Final Office Action*, at 3.

However, Appellant maintains that, as discussed in Appellant’s previous response, the teaching of “aggregation” provided in *Nanja* is very different from the “aggregation” provided in *Bowers*. For instance, *Nanja* aggregates ***different data*** retrieved from different sources as requested by a ***single user***. *Nanja*, at Abstract. In contrast, *Bowers* aggregates ***requests*** (***not*** retrieved data itself) originated by different users (***not*** a single user) for the same data (***not*** different data) provided by a single source (***not*** different sources). *Bowers*, at Abstract.

Appellant has repeatedly pointed out that *Nanja* and *Bowers* are so different from each other that there is no indication that the use of both aggregation methods together would “increase network resources efficiency,” as contended by the Examiner. *Final Office Action*, at 3; *Advisory Action*, at 2. In fact, the use of both aggregation methods seems to involve the duplication of at least some aggregation efforts, and thus would appear to actually be **detrimental to the efficiency** of *Nanja*’s network (contrary to the Examiner’s assertion of increased network efficiency). Moreover, it is not immediately appreciable how the “aggregation” of *Bowers* would work together with the “aggregation” of *Nanja*, if at all. Thus, Appellant further submits that a combination of *Bowers* with *Nanja* would require a substantial reconstruction and redesign of the elements shown in *Nanja*, as well as a change in the basic principle under which *Nanja* was designed to operate. See *In re Ratti*, 270 F.2d 810, 843, 123 USPQ 349, 352 (CCPA 1959).

Regardless of the repeated attempts to point to the fundamental differences in the cited references, the Examiner continues to assert that “the motivation to combine *Bowers* with *Nanja* references is to increase the network resources efficiency (paragraphs 9-11 of *Bowers*).” *Final Office Action*, at 10-11; *Advisory Action*, at 2. The Examiner has never offered any explanation whatsoever in support of the contention that the combination of the *Bowers* teaching with *Nanja* would not only work, but also result in an increase in the network resource efficiency in the resulting system. The Examiner must provide at least some articulated reasoning with a **rational underpinning** to support the legal conclusion of obviousness. *In re Kahn*, 441 F.3d 977, 988, 78 USPQ2d 1329, 1336 (Fed. Cir. 2006). However, the Examiner’s reasoning in the present case lacks any articulation or rational underpinning. As discussed above, it is unclear not only how the combined teachings of *Bowers* and *Nanja* would work together, but also how the combination would result in improved network resource efficiency as opposed to the apparent decrease in network efficiency that would likely result, as discussed above.

Accordingly, the combination of at least *Nanja* with *Bowers* is improper, and Appellant respectfully requests that the Board overturn the 35 U.S.C. § 103(a) rejections of record with respect to claims 1-5, 7-8, 9-13, 15-16, 17-21, 23-26, and 31.

2. Lack of All Claimed Elements

a. Independent Claim 1

Independent claim 1 requires:

aggregating said information preferences received from said plurality of subscribers into aggregated information preferences, wherein at least two of said aggregated information preferences correspond to different data of said same data source provider

The Final Office Action concedes that *Nanja* does not teach or suggest the above-identified element, but relies upon *Bowers* and *Ikezawa* as teaching or suggesting this element. *Final Office Action*, at 2-3 and 11-12. However, the combination of *Bowers* and *Ikezawa*, in fact, fails to teach or suggest this element, as discussed below.

Claim 1 requires that two or more of the aggregated information preferences correspond to different data of a same data source provider. In contrast, *Bowers* only discloses aggregating *requests* that correspond to the same data of the same data source provider. *Bowers*, at ¶¶ [0050] and [0051] (“aggregation module 102 aggregates requests for the *same* real-time streaming or continuous feed” (emphasis added)). Thus, *Bowers* fails to teach or suggest the above element of claim 1.

With regard to *Ikezawa*, the Examiner states that the “Ikezawa et al. reference is only used to show that a server can receive multiple requests on different data and provide different data to one or more users (paragraph 446).” *Final Office Action*, at 4; *Advisory Action*, at 2. The Examiner further explains that “Ikezawa teaches a server can provide more than one kind of data to different users (paragraph 446) and Bowers teaches an aggregation module 102 aggregating different requests from different users and receive different services and send to the different users (paragraph 33-34, 50-51, and 61-63).” *Final Office Action*, at 11; *Advisory Action*, at 2.

However, even assuming that *Ikezawa* teaches a server that can receive multiple requests on different data and provide that different data to one or more users (a contention to which Appellant does not agree), this teaching falls short of teaching or suggesting aggregating different data of a same data source provider, as required by claim 1. Indeed, when the teaching of *Ikezawa* is combined with and considered in light of the express teaching of *Bowers*, one is lead again to the conclusion that it is the requests for the *same data* which are aggregated.

The mere suggestion that different data could be requested in *Ikezawa* does not support aggregation of preferences that correspond to different data, as required by claim 1. For instance, even assuming that *Bowers* allows for its server to receive multiple requests on different data (a contention to which Appellant does not agree), *Bowers* would appear to perform its aggregation to aggregate those requests that are for the same data. Accordingly, if the aggregation module 102 of *Bowers* is employed in the manner suggested by the Examiner, then the aggregation performed thereby would aggregate those requests that are for the *same data*. Thus, the applied combination fails to teach or suggest aggregating information preferences received from a plurality of subscribers where at least two of the aggregated information preferences correspond to *different data* of a same data source provider.

In addition, Appellant maintains that *Bowers* only discloses aggregating requests for specific media streams as opposed to types of information as required by claim 1. *Bowers*, at ¶ [0050]. Clearly, *Bowers*' requests for streaming media files do not specify "types" of media files selected by a subscriber insofar as they must identify the desired media files themselves. *Id.* at ¶ [0015] and [0033]. The Examiner asserts that "Bowers teaches subscriber's information preferences is a type of a streaming media files (one type out of stock quotes, news and other text streams in paragraph 29)." *Final Office Action*, at 12-13. Appellant respectfully disagrees. In *Bowers*, the subscriber's information preferences do not specify at least one type of dynamically changing information. *Bowers*, at ¶ [0015] and [0033]. Instead, the subscriber must identify the desired media file themselves. While the specific media file identified may be of a type, such as stock quotes, news, etc., *Bowers* does not teach or suggest that a subscriber's information preferences specify such a type, but instead the subscriber merely identifies the specific media file itself (rather than any "type" information). *Bowers*, at ¶ [0015] and [0033].

Further, with regard to Appellant's argument in the paragraph above, the Examiner states that "the features upon which applicant relies (*i.e.*, specifying types of file or data) are not required in the rejected claim(s)." *Final Office Action*, at 12; *Advisory Action*, at 2. The feature upon which Appellant relies is "each subscriber's information preferences specify at least one *type* of dynamically changing information" *Claim 1* (emphasis added). Contrary to the Examiner's opinion, the feature "type" is required in the claim and because "[a]ll words in a claim must be considered in judging the patentability of that claim against the prior art" the word "type" cannot be treated as an unrequired element. *In re Wilson*, 424 F.2d 1382, 1385, 165 USPQ 494, 496 (CCPA 1970) (emphasis added).

As such, the combination of *Nanja*, *Bowers*, and *Ikezawa* even if proper, does not teach or suggest every element required in claim 1. Accordingly, Appellant respectfully requests that the Board overrule the 35 U.S.C. § 103(a) rejection of record with respect to claim 1.

b. Independent Claim 9

Independent claim 9 requires:

means for assembling two or more of said information preferences gathered from said plurality of subscribers that correspond to different data of a same data source provider into an aggregate preference. . . .

As noted above, *Bowers* only discloses aggregating requests that correspond to the same data of the same data source provider. *Bowers*, at ¶¶ [0050] and [0051] ("aggregation module 102 aggregates requests for the *same* real-time streaming or continuous feed" (emphasis added)). Even if *Bowers* allows for its server to receive multiple requests on different data (as the Examiner asserts with reliance on *Ikezawa*), *Bowers* would appear to perform its aggregation to aggregate those requests that are for the *same data*. Thus, the applied combination does not teach or suggest the above element of claim 9.

Therefore, the combination of *Nanja*, *Bowers*, and *Ikezawa*, even if proper, does not teach or suggest every element required in claim 9. Accordingly, Appellant respectfully requests that the Board overrule the 35 U.S.C. § 103(a) rejection of record with respect to claim 9.

c. Independent Claim 17

Independent claim 17 requires:

code for assembling said one or more preferences received from said plurality of subscribers into an aggregate preference, wherein at least two of said assembled one or more preferences correspond to different data of a same information source provider

As explained above, *Bowers* only discloses aggregating requests that correspond to the same data of the same data source provider. *Bowers*, at ¶¶ [0050] and [0051] (“aggregation module 102 aggregates requests for the *same* real-time streaming or continuous feed” (emphasis added)). Even if *Bowers* allows for its server to receive multiple requests on different data (as the Examiner asserts with reliance on *Ikezawa*), *Bowers* would appear to perform its aggregation to aggregate those requests that are for the *same data*.

Therefore, Appellant respectfully asserts that the combination of *Nanja*, *Bowers*, and *Ikezawa*, even if proper, does not teach or suggest at least this element required in claim 17. Accordingly, Appellant respectfully requests that the Board overrule the 35 U.S.C. § 103(a) rejection of record with respect to claim 17.

d. Independent Claim 25

Independent claim 25 requires:

aggregating, by said enhanced broadcast server, said preferences of said plurality of subscribers for different information available from one of said at least one data provider to form a superset of said information that is of interest to said plurality of subscribers. . . .

The *Final Office Action* concedes that *Nanja* does not teach or suggest this element of claim 25, but relies upon *Bowers* as teaching or suggesting this element. *Final Office Action*, at 7-8. However, Appellant submits that *Bowers* does not teach or suggest aggregating preferences of a plurality of subscribers for different information available from one of at least one data provider. *Bowers*, at ¶¶ [0050] and [0051] (“aggregation module 102 aggregates requests for the *same* real-time streaming or continuous feed” (emphasis added)). Even if *Bowers* allows for its

server to receive multiple requests on different data (as the Examiner asserts with reliance on *Ikezawa*), *Bowers* would appear to perform its aggregation to aggregate those requests that are for the *same data*.

Therefore, Appellant respectfully asserts that the combination of *Nanja*, *Bowers*, and *Ikezawa*, even if proper, does not teach or suggest at least this element required in claim 25. Accordingly, Appellant respectfully requests that the Board overrule the 35 U.S.C. § 103(a) rejection of record with respect to claim 25.

e. Independent claim 31

Claim 31 requires:

“receiving ... preferences specifying different subsets of information that are available from one of a plurality of data providers [and] aggregating said two or more of said preferences”

As explained above, *Bowers* only discloses aggregating requests that correspond to the same data of the same data source provider. *Bowers*, at ¶¶ [0050] and [0051] (“aggregation module 102 aggregates requests for the *same* real-time streaming or continuous feed” (emphasis added)). Even if *Bowers* allows for its server to receive multiple requests on different data (as the Examiner asserts with reliance on *Ikezawa*), *Bowers* would appear to perform its aggregation to aggregate those requests that are for the *same data*.

Therefore, Appellant respectfully asserts that the combination of *Nanja*, *Bowers*, and *Ikezawa*, even if proper, does not teach or suggest at least this element required in claim 31. Accordingly, Appellant respectfully requests that the Board overrule the 35 U.S.C. § 103(a) rejection of record with respect to claim 31.

3. Dependent Claims 2-5, 7, 8, 10-13, 15, 16, 18-21, 23, 24, and 26

As noted above, the combination of *Nanja*, *Bowers*, and *Ikezawa*, even if proper, does not teach or suggest every element required in independent claims 1, 9, 17, and 25. Dependent claims 2-5, 7, 8, 10-13, 15, 16, 18-21, 23, 24, and 26 each depend from one of claims 1, 9, 17,

and 25, and, thus, each dependent claim inherits all the elements of its respective independent claim. Consequently, the combination of *Nanja*, *Bowers*, and *Ikezawa*, even if proper, also fails to teach every element of dependent claims 2-5, 7, 8, 10-13, 15, 16, 18-21, 23, 24, and 26. Accordingly, Appellant respectfully requests that the Board overrule the 35 U.S.C. § 103(a) rejection of record with respect to claims 2-5, 7, 8, 10-13, 15, 16, 18-21, 23, 24, and 26. Moreover, the dependent claims are further distinguishable over the cited references as shown by example below.

a. Claim 5

For example, claim 5 requires “*determining* which of said plurality of subscribers are connected to said mobile information system” (emphasis added). The Examiner cites *Nanja* as teaching this claim; however, *Nanja* does not appear to determine which subscribers are connected. *Final Office Action*, at 5. The Examiner contends “paragraph 18, the data synchronizer application 208 transfer [sic] any new information to the connected wireless unit 101 so it must be able to detect the connected wireless unit before transferring new information.” *Final Office Action*, at 5. However, paragraph 18 of *Nanja* does not teach determining which subscribers are connected as required by the claim. Rather, *Nanja* discloses that when a wireless device connects to the data synchronizer, this act triggers data synchronization—as such, it is automatic, and the method of *determining* is absent. Therefore, *Nanja* does not teach this limitation of claim 5.

b. Claim 7

In another example, claim 7 requires “said data is contained *in a data document*, wherein said data document is created from a data-descriptive meta-language” (emphasis added). The Examiner cites *Nanja*’s paragraph [0016] as teaching this limitation stating that “XML is a data-descriptive meta-language.” *Final Office Action*, at 5. This may be so; however, *Nanja* does not teach that the data is contained in a data document. Thus, *Nanja* does not teach this limitation of claim 7.

c. Claim 13

In another example, claim 13 requires “means for *determining* which of said plurality of subscribers are connected” (emphasis added). The Examiner cites *Nanja* as teaching this claim; however, *Nanja* fails does not appear to determine which subscribers are connected. *Final Office Action*, at 5. The Examiner contends “paragraph 18, the data synchronizer application 208 transfer [sic] any new information to the connected wireless unit 101 so it must be able to detect the connected wireless unit before transferring new information.” *Final Office Action*, at 5. However, paragraph 18 of *Nanja* does not teach determining which subscribers are connected as required by the claim. Rather, *Nanja* discloses that when a wireless device connects to the data synchronizer, this act triggers data synchronization—as such, it is automatic, and the method of *determining* is absent. Therefore, *Nanja* does not teach this limitation of claim 13.

d. Claim 15

In another example, claim 15 requires “said compiled data is formatted *into a data document*” (emphasis added). The Examiner cites *Nanja*’s paragraph [0016] as teaching this limitation stating that “XML is a data-descriptive meta-language.” *Final Office Action*, at 5. This may be so; however, *Nanja* does not teach that the data is contained in a data document. Thus, *Nanja* does not teach this limitation of claim 15.

e. Claim 21

In another example, claim 21 requires “code for *determining* which ones of said plurality of subscribers have an open session” (emphasis added). The Examiner cites *Nanja* as teaching this claim; however, *Nanja* does not appear to determine which subscribers are connected. *Final Office Action*, at 6 (citing page 5 of the *Final Office Action*). The Examiner contends “paragraph 18, the data synchronizer application 208 transfer [sic] any new information to the connected wireless unit 101 so it must be able to detect the connected wireless unit before transferring new information.” *Final Office Action*, at 5. However, paragraph 18 of *Nanja* does not teach determining which subscribers are connected as required by the claim. Rather, *Nanja* discloses that when a wireless device connects to the data synchronizer, this act triggers data

synchronization—as such, it is automatic, and the method of *determining* is absent. Therefore, *Nanja* does not teach this limitation of claim 21.

f. Claim 23

In another example, claim 23 requires “said information is contained *in a information document*” (emphasis added). The Examiner cites *Nanja*’s paragraph [0016] as teaching this limitation stating that “XML is a data-descriptive meta-language.” *Final Office Action*, at 6 (citing page 5 of the *Final Office Action*). This may be so; however, *Nanja* does not teach that the data is contained in a data document. Thus, *Nanja* does not teach this limitation of claim 23.

As explained above, Appellant believes claims 2-5, 7, 8, 10-13, 15, 16, 18-21, 23, 24 and 26 are allowable based on their dependence from their allowable respective independent claims. Further, as shown by example, the dependent claims are further distinguishable over the cited references. Therefore, Appellant respectfully asserts that the combination of *Nanja*, *Bowers*, and *Ikezawa*, even if proper, does not teach or suggest the claims. Accordingly, Appellant respectfully requests that the Board overrule the 35 U.S.C. § 103(a) rejection of record with respect to claims 2-5, 7, 8, 10-13, 15, 16, 18-21, 23, 24, and 26.

B. Claim Rejections Under 35 U.S.C. § 103(a) over *Nanja*, *Bowers*, *Ikezawa* and *Ta*

Claims 6, 14, and 22 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over *Nanja* in view of *Bowers*, *Ikezawa*, and *Ta*. *Final Office Action*, at 6. Appellant traverses the rejection and asserts that the claims are allowable, at least, for the reasons stated below.

1. Lack of All Claimed Elements

As noted above, the combination of *Nanja*, *Bowers*, and *Ikezawa* fails to teach or suggest every element required in independent claims 1, 9, and 17. The Examiner does not rely upon *Ta* as curing the above-noted deficiencies, nor does *Ta* teach such missing limitations. Therefore, the combination of *Nanja* with *Bowers*, *Ikezawa*, and *Ta*, even if proper, fails to teach or suggest all of the elements of independent claims 1, 9, and 17. Dependent claims 6, 14, and 22 depend

from claims 1, 9, and 17, respectively, each dependent claim, thus, inheriting all the features of its respective independent claim.

Consequently, the combination of *Nanja* with *Bowers*, *Ikezawa*, and *Ta*, even if proper, also fails to teach or suggest all of the elements of dependent claims 6, 14, and 22. Accordingly, Appellant respectfully requests that the Examiner withdraw the 35 U.S.C. § 103(a) rejection of record with respect to claims 6, 14, and 22.

VIII. CLAIMS APPENDIX

A copy of the claims involved in the present appeal is attached hereto as Appendix A.

IX. EVIDENCE APPENDIX

No evidence pursuant to §§ 1.130, 1.131, or 1.132 or entered by or relied upon by the examiner is being submitted.

X. RELATED PROCEEDINGS APPENDIX

No related proceedings are referenced in II. above, hence copies of decisions in related proceedings are not provided.

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Respectfully submitted,

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APPENDIX A

1. A method for developing data for a mobile information system comprising:
receiving information preferences from a plurality of subscribers to said mobile information system, wherein each subscriber's information preferences specify at least one type of dynamically changing information available from a same data source provider that said subscriber desires to receive through subscription to said mobile information system;

aggregating said information preferences received from said plurality of subscribers into aggregated information preferences, wherein at least two of said aggregated information preferences correspond to different data of said same data source provider;

transmitting said aggregated information preferences to said same data source provider;
and

assembling data for said mobile information system using said aggregated information preferences.

2. The method of claim 1 further comprising:
separating said information preferences according to one of a plurality of channels of said mobile information system.

3. The method of claim 2 wherein said transmitting comprises:
transmitting said aggregated information preferences to said data source provider responsible for providing said assembled data for said one of said plurality of channels.

4. The method of claim 1 further comprising:
transmitting said assembled data to said mobile information system; and
sending subscriber-specific feed data streams to each one of said plurality of subscribers according to said information preferences entered by said plurality of subscribers.

5. The method of claim 4 further comprising:
determining which of said plurality of subscribers are connected to said mobile information system; and
wherein said sending step comprises:
sending subscriber-specific feed data streams to connected ones of said plurality of subscribers.

6. The method of claim 4 further comprising:
checking assigned bandwidth limitations for each of said plurality of subscribers; and
wherein said sending step comprises:
sending subscriber-specific feed data streams to ones of said plurality of subscribers whose assigned bandwidth limitations has not been exceeded.

7. The method of claim 1 wherein said data is contained in a data document, wherein said data document is created from a data-descriptive meta-language.

8. The method of claim 7 wherein said data document is obtained by one of:
polling a Web site containing a formatted data document;
polling a data server containing an unformatted data document, wherein an data style layout transform is used to transform said unformatted data document into a formatted data document;
using a library resource to push said data document to said mobile information system;
and
running a data development server to:
gather data from said data source provider;
convert said data into said data document; and
transmit said data document to said mobile information system.

9. A system for compiling data for a mobile rich media information system comprising:

means for gathering information preferences from a plurality of subscribers to said mobile rich media information system;

means for assembling two or more of said information preferences gathered from said plurality of subscribers that correspond to different data of a same data source provider into an aggregate preference;

means for transmitting said aggregate preference to said data source provider; and

means for compiling data for said mobile rich media information system using said aggregated information preferences.

10. The system of claim 9 further comprising:

means for separating said information preferences according to one of a plurality of rich media channels offered by said mobile rich media information system.

11. The system of claim 10 wherein said transmitting comprises:

means for transmitting said aggregate preference to said data source provider responsible for providing said compiled data for said one of said plurality of rich channels.

12. The system of claim 9 further comprising:

means for transmitting said compiled data to said mobile rich media information system;

and

means for sending subscriber-specific channel data streams to each one of said plurality of subscribers according to said information preferences entered by individual ones of said plurality of subscribers.

13. The system of claim 12 further comprising:

means for determining which of said plurality of subscribers are connected to said mobile rich media information system; and

wherein said means for sending comprises:

means for sending subscriber-specific channel data streams to connected ones of said plurality of subscribers.

14. The system of claim 12 further comprising:
means for determining a bandwidth limitation assigned to each of said plurality of subscribers; and

wherein said means for sending comprises:

means for sending subscriber-specific channel data streams to ones of said plurality of subscribers whose bandwidth limitation has not been exceeded.

15. The system of claim 9 wherein said compiled data is formatted into a data document, wherein said data document is created from a data-descriptive meta-language.

16. The system of claim 15 wherein said data document is obtained by one of:
means for polling a Web site containing a formatted data document;
means for polling a data server containing an unformatted data document, wherein an data style layout transform is used to transform said unformatted data document into a formatted data document;

means for using a library resource to push said data document to said mobile rich media information system; and

means for running a data development server to:

gather data from said data source provider;

convert said data into said data document; and

transmit said data document to said mobile rich media information system.

17. A computer program product having a computer readable medium with computer program logic recorded thereon for developing information for a mobile information system, said computer program product comprising:

code for receiving one or more preferences from a plurality of subscribers to said mobile information system, wherein each of said preferences identifies a subset of dynamically changing information available for subscription through at least one information channel;

code for assembling said one or more preferences received from said plurality of subscribers into an aggregate preference, wherein at least two of said assembled one or more preferences correspond to different data of a same information source provider;

code for transmitting said aggregate preference to said information source provider; and

code for compiling information for said mobile information system using said aggregate preference.

18. The computer program product of claim 17 further comprising:

code for separating said one or more preferences according to one of a plurality of channels subscribed to by said plurality of subscribers.

19. The computer program product of claim 18 wherein said code for transmitting comprises:

code for transmitting said aggregate preference to said information source provider responsible for providing said compiled information for said one of said plurality of channels.

20. The computer program product of claim 17 further comprising:

code for transmitting said compiled information to said mobile information system; and

code for sending subscriber-specific channel data streams to each one of said plurality of subscribers according to said one or more preferences entered by individual ones of said plurality of subscribers.

21. The computer program product of claim 20 further comprising:
code for determining which ones of said plurality of subscribers have an open session
with said mobile information system; and

wherein said code for sending comprises:

code for sending subscriber-specific channel data streams to connected ones of
said plurality of subscribers determined to have said open connection.

22. The computer program product of claim 20 further comprising:
code for determining a bandwidth limitation for each of said plurality of subscribers; and
wherein said code for sending comprises:

code for sending subscriber-specific channel data streams to ones of said plurality
of subscribers having available bandwidth within said determined bandwidth limitation.

23. The computer program product of claim 17 wherein said information is contained
in a information document, wherein said information document is created from a data-descriptive
meta-language.

24. The computer program product of claim 23 wherein said information document is
obtained by one of:

code for polling a Web site containing a formatted information document;

code for polling a information server containing an unformatted information document,
wherein an data style layout transform is used to transform said unformatted information
document into a formatted information document;

code for using a library resource to push said information document to said mobile
information system; and

code for running a information development server to:

gather information from said information source provider;

convert said information into said information document; and

transmit said information document to said mobile information system.

25. A method comprising:

receiving, at an enhanced broadcast server, preferences from a plurality of subscribers to a mobile information system, wherein said preferences specify for each of said subscribers a subset of information that is available from at least one data provider with which said enhanced broadcast server is communicatively coupled and that is of interest to said subscriber;

aggregating, by said enhanced broadcast server, said preferences of said plurality of subscribers for different information available from one of said at least one data provider to form a superset of said information that is of interest to said plurality of subscribers;

sending, from said enhanced broadcast server, a request for said superset of said information to said one of said at least one data provider;

receiving, at said enhanced broadcast server, said requested superset of said information from said one of said at least one data provider;

determining, by said enhanced broadcast server, corresponding subsets of said received superset of said information that are of interest to each of said plurality of subscribers based on each of said subscribers' preferences; and

sending, from said enhanced broadcast server, said determined subsets of said received superset of said information to each of said plurality of subscribers.

26. The method of claim 25 further comprising:

sending, to at least one of said plurality of subscribers, an aggregate of said received information from different ones of said at least one data provider that are of interest to said at least one of said plurality of subscribers.

31. A method comprising:

receiving preferences from a plurality of subscribers, wherein two or more of said preferences specify different subsets of information that are available from one of a plurality of data providers;

aggregating said two or more of said preferences;

sending a request comprising said aggregated preferences to said one of said plurality of data providers;

receiving said different subsets of information; and

sending each of said different subsets of information to a corresponding one of said plurality of subscribers.

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APPENDIX B

None

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APPENDIX C

None